

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DENNIS ROY WHITE,

Petitioner,

2:02-cv-2071-GEB-KJM-P

vs.

GAIL LEWIS,

Respondent.

ORDER

_____/

Petitioner, a state prisoner proceeding pro se, has timely filed a notice of appeal of this court's September 20, 2005 denial of his application for a writ of habeas corpus. Before petitioner can appeal this decision, a certificate of appealability must issue. 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b).

A certificate of appealability may issue under 28 U.S.C. § 2253 "only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). The court must either issue a certificate of

1 appealability indicating which issues satisfy the required
2 showing or must state the reasons why such a certificate should
3 not issue. Fed. R. App. P. 22(b).

4 For the reasons set forth in the magistrate judge's
5 July 20, 2005 findings and recommendations, petitioner has not
6 made a substantial showing of the denial of a constitutional
7 right. Accordingly, a certificate of appealability should not
8 issue in this action.

9 IT IS SO ORDERED.

10 DATED: October 25, 2005

11 /s/ Garland E. Burrell, Jr.
12 GARLAND E. BURRELL, JR.
13 United States District Judge
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